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July 20, 2022

BY ECF

The Honorable Judge Denise L. Cote
Daniel Patrick Moynihan
United States Courthouse
Courtroom 18 B
500 Pearl St.
New York, NY 10007-1312

Re: United States v. Bryan Daffin, 16-Cr.-273

Dear Judge Cote:

I represent Bryan Daffin in the above matter and I write with reference to the conference on Wednesday, July 13, in which the Court ordered the government to conduct a DNA analysis on a weapon on an expedited basis in connection with an allegation of a probation violation. The Court further directed the parties to advise the Court of the results of the test before October 31, 2022, as well as the status of charges pending in Bronx County Supreme Court arising out of the same conduct. For the following reasons, I respectfully request that the Court amend the order so as not to require the government to conduct a DNA analysis until the State case is resolved. AUSA Jane Kim informs me that the government takes no position on this request.

Following our appearance last week, I spoke again with Mr. Daffin's State counsel, Steven Kessler, and learned that plea discussions are proceeding apace and that he is hopeful that the parties can reach a timely resolution of that matter. Mr. Kessler further informed me that, in connection with those discussions, he is working closely with the Osborne Association, a City organization that assists individuals in the criminal justice system by, among other things, bringing to the District Attorney's attention a defendant's background and positive attributes. See <https://www.nycservice.org/organizations/793>. Mr. Kessler and the Osborne Association have much to work with here: Mr. Daffin has fully complied with the terms of his federal probation; he works full time; he supports his family both financially and otherwise (he regularly takes his seven-year-old son to school and camp and picks him up as well); and he has consistently tested negative for drugs.

I respectfully suggest that awaiting a resolution of the State case is most efficient here, as it may help to foster a disposition of the probation violation charges as well. If the Court is amenable to this request, I will, of course, promptly report to the government and the Court any disposition of the Bronx County matter.

I thank the Court for its consideration of this matter.

Respectfully,

/s/ Nathaniel Z. Marmur

Nathaniel Z. Marmur

The defendant shall advise the Court by September 23 whether a disposition has been reached in the defendant's state case. The Government need not order expedited DNA testing at this time. The parties shall assume that expedited DNA testing may be required after September 23.

James Cole
7/28/22